

**REMARKS**

The Applicants have carefully considered this application in connection with the Examiner's Action and respectfully request reconsideration of this application in view of the following remarks.

The Applicants originally submitted Claims 1-10 in the application, which have been cancelled. Additionally, Claims 11 to 30 were previously added in an Amendment. Accordingly, Claims 11 to 30 are currently pending in the application.

**I. Rejection of Claims under 35 U.S.C. §103****A. In view of Dusse**

The Examiner has rejected Claims 11-30 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,647,260 to Dusse, *et al.* ("Dusse"). Referring initially to Claim 11, the Examiner believes that Dusse discloses the invention substantially as claimed including a method for downloading media content over a communication system to a mobile station (FIGURE 1, Abstract) that includes requesting media content by sending a message with a header having a mobile identification number from the mobile station (provisioning request and device identification number, column 5, lines 6-10 and 15-16). The Examiner also believes that Dusse discloses receiving a message with the media content (column 7, lines 32-34) and a reply Universal Resource Locator ("URL") identifying a server and a transaction identification at the mobile station (column 7, lines 35-38). The Examiner also believes that Dusse discloses

temporarily saving the media content within the mobile station and previewing at least a portion of the media content on the mobile station (terms, conditions, and related information are pushed to the mobile station, hence, temporarily stored until previewed and accepted, column 8, lines 35-47). The Examiner also believes that Dusse discloses sending a primitive with the mobile identification number from the mobile station to the server identified by the reply URL (column 6, lines 55-58, column 7, lines 35-40) and permanently saving the media content within the mobile station only when permission to save has been received (column 7, lines 32-40).

While Dusse does not explicitly disclose a reply URL identifying a server and a transaction identification as part of the received message, the Examiner believes that the content forwarded to the mobile station includes information required to communicate with limited access commercial service devices (column 7, lines 32-41). It would have been obvious to one skilled in the art at the time of the invention, in the Examiner's view, that the information would include a URL for a billing service, as well as transaction identification to facilitate billing charges for accounting purposes. (Examiner's Action, pp. 2-3).

In addition to the aforementioned limitations of Dusse as provided by the Examiner, the Applicants believe that Dusse fails to teach or suggest the claimed invention for the reasons as set forth below. Beginning with the Abstract, Dusse is directed to a system and method for provisioning a mobile device having a display screen and user interface that is initiated from the device to be provisioned. The mobile device to be provisioned establishes a secure communications session with a provisioning server device. The user of the mobile device is then presented with a plurality of input and choice screens, which may be used in conjunction with the user interface to provide user information, select device features and services. The user information and selected feature and service requests are then forwarded to the provisioning

server device. The provisioning server device processes the received information and generates provisioning packages, registration requests, and notifications for the subject mobile device and for any associated server device providing services. The provisioning packages may include software modules, parameters and any required security information. (Abstract).

The Examiner cites the aforementioned section of Dusse to teach a method for downloading media content over a communication system to a mobile station. At the very best, Dusse provides provisioning content to a mobile device. The provisioning content takes the form of software modules that modify the resident features of a mobile device or activation information required to initialize previously installed non-operational applications thereon. (Column 6, lines 50-55). The Applicants are perplexed by the parallel drawn by the Examiner between the media content of Claim 11 and the provisioning content described in Dusse. Assuming *arguendo*, however, that the provisioning content is akin to the media content, in addition to the limitations of Dusse admitted by the Examiner, there are still other elements of Claim 11 that Dusse fails to teach or suggest as set forth below.

The Examiner believes that Dusse teaches temporarily saving the media content within the mobile station and previewing at least a portion of the media content on the mobile station (citing column 8, lines 35-47), and thereafter permanently saving the media content within the mobile station only when permission to save has been received (citing column 7, lines 32-40). A close review of the provisioning process of Dusse fails to support the aforementioned allegation. The provisioning processing described with respect to FIGURES 7A, *et seq.* of Dusse provides an overview thereof to accentuate the differences between Dusse and the method as recited in Claim 11.

The provisioning process begins by establishing a secure communications session between a requesting mobile device and a provisioning server and, then, an identity of both participants is mutually authenticated. If mutual authentication is successful, the mobile device identification information and user information are forwarded to the provisioning server for verification. If the verification step is successful, the provisioning request is processed via feature provisioning, service provisioning or package provisioning including a predetermined group of features and services. (FIGURE 7A, column 8, lines 14-32).

With respect to feature provisioning, upon processing the provisioning request, terms, conditions, and related information, notifications are pushed to the requesting mobile device using a narrowband channel (*e.g.*, a short message system message) for approval by the user prior to implementation. If the user declines, the session is terminated. If the user accepts then a notification is forwarded to the requesting mobile device through a narrowband channel and the provisioning content is forwarded to the mobile device via a wideband channel. The provisioning content is provisioned and a determination is made as to whether the provisioning content was implemented successfully. If the implementation fails, then the user has the option of requesting a retransmission. If the implementation is successful, then a confirmation message is generated and forwarded to the provisioning server. (FIGURE 7B, column 8, lines 33-52).

With respect to registering a mobile device, the process employs the provisioning server to register a requesting mobile device with a server device providing services. A communications session is established between the provisioning server and a service server followed by a mutual authentication. If mutual authentication is successful, then user registration information is forwarded to the service server. The registration request is processed and, if the mobile device is successfully registered, then a registration confirmation notification is generated

and forwarded to the provisioning server. If registration fails due to corrupted registration information or missing information, then the user has the option of re-sending a registration request. (FIGURE 7C, column 8, line 53 to column 9, line 4).

It appears to the Applicants, therefore, that the provisioning content is forwarded to the mobile device and provisioned only after the provisioning request, terms, conditions and related information is processed. The aforementioned process is very different from the method as recited in Claim 11. To reiterate, following a request and receipt of a message with media content, the subject method temporarily saves the media content within the mobile station and previews a portion thereof. At some time thereafter, the mobile station permanently saves the media content therein upon receiving permission. The decision to provision the mobile device of Dusse is not based on temporarily storing and previewing the provisioning content, but based on the terms, conditions and related information associated therewith. Once the terms, conditions and related information are approved, the provisioning content is forwarded and provisioned within the mobile device.

While appearing subtle, the difference is significant and makes sense in view of the purposes of the respective processes and methodologies. Dusse is provisioning a mobile device and, as such, previewing the actual provisioning content is less important to a user, while the terms, conditions and related information influence the decision. The method of Claim 11, however, is directed to downloading the media content itself and, as such, temporarily storing and previewing the media content is arguably the most important factor to ultimately permanently saving the media content on the mobile station. Dusse, therefore, fails to establish a *prima facie* case of obviousness of Claim 11, and the claims dependent thereon.

For very similar reasons, the Examiner has rejected Claim 16 under 35 U.S.C. §103(a) as being unpatentable over Dusse. The Applicants believe that Dusse also fails to render Claim 16 obvious for analogous reasons as set forth above. Dusse, therefore, fails to teach or suggest, among other things, generating a transaction number based on selecting a ring tune and sending a file that conforms to a Multimedia Internet Mail Extension ("MIME") format with a ring tune and a reply URL to the mobile station, verifying a format and temporarily storing the file within the mobile station, and permanently storing the file within the mobile station pursuant to a confirmation reply message as recited in Claim 16. Dusse, therefore, fails to establish a *prima facie* case of obviousness of Claim 16, and the claims dependent thereon.

In view of the foregoing remarks, the cited reference does not support the Examiner's rejection of Claim 11, and the claims dependent thereon (Claims 12-15), and Claim 16, and the claims dependent thereon (Claims 17-30) under 35 U.S.C. §103(a). In accordance therewith, the Applicants respectfully request the Examiner withdraw the rejection.

**B. In view of Vazvan and Ronen**

The Examiner has also rejected Claims 11 and 16 under 35 U.S.C. §103(a) as being unpatentable over International Application Publication No. WO 00/36857 to Vazvan in view of U.S. Patent No. 5,905,736 to Ronen, *et al.* ("Ronen"). Referring initially to Claim 11, the Examiner believes that Vazvan discloses the invention substantially as claimed including a method for downloading media content over a communication system to a mobile station (FIGURE 1) that includes requesting media content by sending a message with a header having a mobile identification number from the mobile station (p. 2, lines 10-12). The Examiner also believes that Vazvan discloses receiving a message with the media content (p. 2, lines 10-12) and a reply URL identifying a server and a transaction identification at the mobile station (p. 8, lines

9-19). The Examiner also believes that Vazvan discloses temporarily saving the media content within the mobile station and previewing at least a portion of the media content on the mobile station (p. 3, lines 19-22, p. 4, line 28). The Examiner also believes that Vazvan discloses sending a primitive with the mobile identification number from the mobile station to the server identified by the reply URL (p. 8, lines 16-19).

While Vazvan does not permanently save the media content within the mobile station only when permission to save has been received, the Examiner believes that Ronen discloses finishing a request for media after permission from a billing mechanism has been received (column 7, lines 30-60). It would have been obvious to one skilled in the art at the time of the invention, in the Examiner's view, to combine the teachings of Vazvan and Ronen because the transaction billing confirmation of Ronen ensures a transparent billing process for the downloaded media system of Vazvan. (Examiner's Action, p. 8).

The Applicants believe that the combination of references fails to teach or suggest the method as recited in Claim 11 for the reasons as set forth below. Vazvan is directed to a feature service allowing a subscriber to send, via a terminal device, a musical tune message to another subscriber's terminal, by which the musical tune message can be listened to, stored and/or retransmitted to a terminal device of a third party. (Page 2, line 30 to page 3, line 2).

More particularly in accordance with FIGURES 1 and 2A of Vazvan, subscriber A opens, via a terminal device, a web page in accordance with a musical tune message center maintained by a service provider, wherein stored musical pieces are selectable by certain codes/names and are so arranged that subscriber A can enter, in a certain field, a mobile phone number of a recipient, subscriber B. After the subscriber A has entered the phone number of subscriber B and selected a musical piece, subscriber A provides a "send" command to transmit the musical tune

message to the terminal device of subscriber B over a telecommunications network. The terminal device of subscriber B can review the greeting/message associated with the musical tune message as a short message (e.g., as text "With love from me") on a display thereof. The subscriber B can store and/or activate the musical tune message, as well as listen to or store the musical tune in the terminal device. Before the desired musical tune message is sent to the terminal device of subscriber B, the musical tune message center checks the compatibility of the terminal device. If the check result is "YES," the musical tune message center sends the musical tune message and, if the result is "NO," the musical tune message center reports the situation to subscriber A. (Page 5, lines 1-23).

According to Vazvan and admitted by the Examiner, the subscriber requesting the media content does not permanently save the media content within the mobile station when permission to save has been received as recited in Claim 11. The reason that the subscriber requesting the media content does not save the same is because the subscriber is requesting the media content for the benefit of another subscriber. The Examiner cites Ronen to cure the deficiencies of Vazvan.

Ronen is directed to centralized billing for information and/or services, or for any type of transaction, conducted over the Internet by users connected through an Internet access provider ("IAP") to one or more Internet service providers ("ISPs"). In accordance therewith, an Internet protocol ("IP") address that is assigned to the user by the IAP upon connection is transmitted to a billing platform together with the associated identity of the user, which is known to the IAP through normal log on procedures. In response to a chargeable transaction, the ISP transmits to the billing platform the IP address identity of the user making the transaction and the cost associated with the transaction. (Column 2, lines 5-16).



A billing server then cross references the IP address associated with the cost of the transaction received from the ISP with the IP address/user identity relationship received from the IAP to properly charge an established account of the user for the transaction. This account will likely be established by the user prior to the execution of the transaction for billing in a predetermined manner to, for example, a user's selected credit card, a user's debit card, a user's telephone account associated with his or her phone number, a user's merchant credit card, or other billing mechanism. Billing to a particular credit card, debit card, merchant credit card, *etc.*, can be selectively determined, for example, by the type of transaction, the amount of the transaction, the identity of the provider, or a combination thereof. (Column 2, lines 16-30).

Thus, Ronen is directed to a centralized billing system and method. The Examiner cites column 7, lines 30 to 60 of Ronen to cure the deficiencies of Vazvan. While the Applicants understand that Ronen teaches a billing system, the Applicants are perplexed how the billing system of Ronen provides the missing step(s) of Vazvan. The cited section of Ronen provides that without a confirmation, the user is precluded from proceeding with a transaction. If an entry for that IP address is confirmed, the existence of a billing mechanism is confirmed from the presence of an indicating marker. If no billing mechanism has been established, then the ISP sends the user a URL to an hypertext markup language page for selecting a billing mechanism. The billing mechanism will include the user's desired method or methods of billing, and any parameters that define when a particular billing method is to be applied. The user selects the desired billing mechanism, which is sent to the transaction server. The transaction server sends the information to the billing server for permanent storage on its database and the transaction server updates the entry associated with that user's IP address to include a marker indicating that a billing mechanism has been established. The user is notified that a billing mechanism has been

established and to proceed with service requests via an ISP. If the presence of a billing mechanism is confirmed, the ISP receives confirmation from the transaction server and provides the requested service to the user, the latter including delivery of the requested information, the downloading of requested software, or a confirmation of an order. (Column 7, lines 30-60).

Ronen, therefore, provides a billing system that can approve or decline the billing for a selected service. Incorporating the billing system of Ronen into Vazvan will approve or decline an ability of a subscriber to send media content to another subscriber. The combination of references, however, will not allow the subscriber requesting the media content to permanently save the media content within the mobile station when permission to save has been received as recited in Claim 11. Vazvan and Ronen, therefore, fail to establish a *prima facie* case of obviousness of Claim 11, and the claims dependent thereon.

For very similar reasons, the Examiner has rejected Claim 16 under 35 U.S.C. §103(a) as being unpatentable over Vazvan and Ronen. The Applicants believe that Vazvan and Ronen also fail to render Claim 16 obvious for analogous reasons as set forth above. Vazvan and Ronen, therefore, fail to teach or suggest, among other things, generating a transaction number based on selecting a ring tune and sending a file that conforms to a MIME format with a ring tune and a reply URL to the mobile station, verifying a format and temporarily storing the file within the mobile station, and permanently storing the file within the mobile station pursuant to a confirmation reply message as recited in Claim 16. Vazvan and Ronen, therefore, fail to establish a *prima facie* case of obviousness of Claim 16, and the claims dependent thereon.

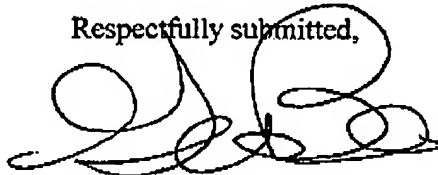
In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claim 11, and the claims dependent thereon (Claims 12-15), and Claim 16, and the claims dependent thereon (Claims 17-30) under 35 U.S.C. §103(a). In accordance therewith, the Applicants respectfully request the Examiner withdraw the rejection.

## II. Conclusion

In view of the foregoing amendments and remarks, the Applicants now see all of the claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 11 to 30.

The Applicants request that the Examiner telephone the undersigned attorney of record at (972) 732-1001 if such would further expedite the prosecution of the present application. No fee is believed due in connection with this filing. However, should one be deemed due, the Commissioner is hereby authorized to charge Deposit Account No. 50-1065.

Respectfully submitted,



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